

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

MAGNACROSS LLC,

Plaintiff,

v.

**CELLCO PARTNERSHIP D/B/A
VERIZON WIRELESS,**

Defendant.

CASE NO. 2:15-cv-844-JRG-RSP
(LEAD CASE)
PATENT CASE

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Pursuant to Local Patent Rule 4-3 (“P.R. 4-3”) and the Docket Control Order, Plaintiff Magnacross LLC (“Magnacross”) and Defendants ASUS Computer International, AT&T Mobility LLC, BLU Products, Inc., Cellco Partnership d/b/a Verizon Wireless, Sprint Spectrum L.P., MSI Computer Corp., T-Mobile USA, Inc., and YiFang USA Inc. dba eFun hereby submit this Joint Claim Construction and Prehearing Statement (“Statement”).

(a) Agreed Constructions

The Parties do not agree on any proposed claim constructions.

(b) Disputed Constructions

The following is a claim term that Magnacross contends should be construed but for which the Defendants contend no separate construction is required:

- “data sensors” (claims 1 and 12)

The following is a list of claim terms that Defendants contends should be construed but for which Magnacross contends no construction is required:

- “allocating data from said local data sensors to respective ones or groups of said sub-channels in accordance with the data carrying capacities of said sub-channels” / “allocation of data from said local data sensors to respective ones or

groups of said sub-channels in accordance with...data rate requirements from said local sensors” (claims 1 and 12);

- “control means” (claim 12);
- “data processing means” (claims 1 and 12);
- data rate... “differing substantially” / “substantially different” data rate (claims 1 and 12);
- “division of said [communications] channel into sub-channels” (claims 1 and 12);
- “transmitter adapted to transmit said data through said sub-channels accordingly” (claim 12);
- “communications channel” (claims 1 and 12);
- Preamble (whether limiting or not limiting) [“1. A method... data processing means” (1st 3 lines of claim 1); “12. Apparatus... data processing means,” (1st 3 lines of claim 12)];
- “said local sensors” (claims 1 and 12);
- “said local data sensors” (claims 1 and 12);
- “subchannel” (claims 1 and 12).
- “whereby the data carrying capacities of said sub-channels are unequal” (claims 1 and 12).

The following is a list of claim terms that Defendants ASUS Computer International, AT&T Mobility LLC, BLU Products, Inc., Cellco Partnership d/b/a Verizon Wireless, Sprint Spectrum L.P., MSI Computer Corp., and T-Mobile USA, Inc. contend should be construed but for which Magnacross contends no construction is required:

- “transmitting said data from said data sensors” (claims 1 and 12); and
- “transmit”/“transmission”

The following is a list of claim terms that Defendant YiFang contends should be construed but for which Magnacross contends no construction is required:

- “multiplexer” (claims 1 and 12); and

Exhibit A contains Plaintiff Magnacross's proposed claim constructions for the disputed terms, along with supporting intrinsic and extrinsic evidence. Exhibit B contains proposed constructions and supporting intrinsic and extrinsic evidence of Defendants ASUS Computer International, AT&T Mobility LLC, BLU Products, Inc., Cellco Partnership d/b/a Verizon Wireless, Sprint Spectrum L.P., MSI Computer Corp., and T-Mobile USA, Inc. Exhibit C contains proposed constructions and supporting intrinsic and extrinsic evidence of Defendant YiFang.

(c) Length of Time Needed for Claim Construction Hearing

By its Order, the Court set the Claim Construction hearing for April 22, 2016 at 9:00 a.m. before Judge Roy Payne. The Parties believe that approximately four hours, two hours per side, will be needed for the Claim Construction hearing.

(d) Live Witnesses

Pursuant to the Court's Standing Order Regarding the use of Live Testimony During Claim Construction Proceedings, Magnacross does not anticipate presenting live testimony at the claim construction hearing. Magnacross reserves the right to rely on expert testimony submitted as exhibits to Magnacross's claim construction briefing in response to any indefiniteness argument asserted by Defendants.

Pursuant to the Court's Standing Order Regarding the use of Live Testimony During Claim Construction Proceedings, Defendants do not anticipate presenting live testimony at the claim construction hearing. Defendants reserve the right to rely on any relevant deposition testimony that may be taken prior to the Markman hearing which testimony, if any, will be submitted in the form of exhibits.

(e) Issues for Prehearing Conference

The Parties do not submit any issues at this time for the Court's consideration.

Dated: January 29, 2016

Respectfully Submitted

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on January 29, 2016 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/David R. Bennett

David R. Bennett